## UNITED STATES BANKRUPTCY COURT DISTRICT OF MINNESOTA

In re: Robert A. Clarin and Donna J. Clarin.

Chapter 7 Bky. No. 04-40456

Debtor(s).

#### NOTICE OF HEARING AND MOTION OBJECTING TO CLAIM OF CREDITOR (CLAIM NO. 8)

TO: Entities specified in Local Rule 3007-1.

- 1. Terri A. Georgen-Running, trustee (the "Trustee") of the bankruptcy estate of the above-named Debtor(s) moves the Court for the relief requested below and gives notice of hearing.
- 2. A hearing will be held on this motion by the Honorable Nancy C. Dreher, Courtroom No. 7 West, 7<sup>th</sup> Floor United States Courthouse, 300 S. Fourth Street, Minneapolis, Minnesota on **November 3, 2004** at **10:30 a.m.**, or as soon thereafter as counsel may be heard.
- 3. Any response to this motion must be filed and delivered not later than October 27, 2004, which is seven (7) days before the hearing date, including intermediate Saturdays, Sundays and legal holidays, or filed and served by mail not later than October 22, 2004, which is ten (10) days before the hearing date, including intermediate Saturdays, Sundays and legal holidays. UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157

and 1334, FED. R. BANKR. P. 5005 and Local Rule 1070-1. This is a core proceeding.

The petition commencing this Chapter 7 case was filed on February 2, 2004 and is now

pending before this court.

5. This motion arises under 11 U.S.C. §§502 and 704, FED. R. BANKR. P.

3002 and 3007 and Local Rule 3007-1. This motion is filed under FED. R. BANKR. P.

9014 and 9014 and Local Rule 9013. The Trustee requests relief with respect to Claim

No. 8 filed in the Debtor(s)' case.

6. Bills Equipment ("Claimant") filed a proof of claim on May 20, 2004,

asserting an unsecured non-priority claim in the amount of \$16,549.17 (the "Claim").

The Claim reflects that the basis for the obligation is for money loaned/services

provided/goods sold to Aitkin County Pallet, Inc. (a corporation owned by the Debtor(s)).

There is no documentation to establish that the Debtors personally guaranteed the Claim.

7. As a result, the trustee is unable to determine whether the Claim is

properly filed in this case.

WHEREFORE, the Trustee respectfully requests that the Court disallow Claim

No. 8 and such other relief as may be just and equitable.

Dated: September 29, 2004

**GEORGEN-RUNNING LAW FIRM** 

A Professional Corporation

By: /e/ Terri A. Georgen-Running

Terri A. Georgen-Running (No. 238338)

P.O. Box 16355

St. Paul, MN 55116

(651) 699-6980

(651) 292-1234 Facsimile

ATTORNEYS FOR THE TRUSTEE

VERIFICATION. I, Terri A. Georgen-Running, the moving party named in the foregoing notice of hearing and motion declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: September 29, 2004 /e/ Terri A. Georgen-Running

Terri A. Georgen-Running, Trustee

FCRM B10 (Official Form 10) (04/04)									
JNITED STATES BANKRUPTCY COURT	1.5	PROOF OF CLAIM							
DISTRICT OF MINNESOTA (MINNEAPOLIS)									
Name of Debtor	Case Number								
ROBERT A CLARIN	04-40456	(							
DONNA J CLARIN									
NOTE: This form should not be used to make a claim for	an administrative expense arising after								
the commencement of the case. A "request" for payment of pursuant to 11 U.S.C. §503.	an administrative expense may be med								
Name of Creditor (The person or other entity to whom the debtor	☐ Check box if you are aware that								
owes money or property):	anyone else has filed a proof of claim relating to your claim. Attach	04-40456							
Bill's Equipment	copy of statement giving particulars.								
Name and Address where notices should be sent:	☐ Check box if you have never	THEFT							
Robert R. Kanuit	received any notices from the bankruptcy court in this case.	OMI ED							
Kanuit & Bray, Ltd.	☐ Check box if the address differs	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1							
4815 W. Arrowhead Road, #230	from the address on the envelope	\$ 20 mm							
Hermantown, MN 55811	sent to you by the court.								
		THIS SPICE IS FOR COUNT USE ONLY							
Telephone Number:	Check here if □ replaces	CY COUR							
Account or other number by which creditor identifies debtor: 2761		filed claim, dated:							
1. Basis for Claim		2 81114(-)							
☐ Goods sold ☐ Services performed	☐ Retiree benefits as defined in 11 U.S.C☐ Wages, salaries, and compensation (fil								
☐ Money loaned	Last four digits of SS #								
☐ Personal injury/wrongful death ☐ Taxes	Unpaid compensation for services per fromto	formed							
☐ Other	(date) (date)								
2. Date debt was incurred:	3. If court judgment, date obtained:								
4. Total Amount of Claim at Time Case Filed: \$9549.17	7,000.00 0	16,549.17							
(unsecured)	(secured) (priority)								
(	(secured) (priority)	(Total)							
If all or part of your claim is secured or entitled to priority, also	complete Item 5 or 7 below.	· · ·							
If all or part of your claim is secured or entitled to priority, also Check this box if claim includes interest or other charges in add	complete Item 5 or 7 below.	· · ·							
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If all or part of your claim is secured or entitled to priority, also Check this box if claim includes interest or other charges in addinterest or additional charges.  5. Secured Claim. Check this box if your claim is secured by collateral (including a right of setoff).  Brief Description of Collateral: Real Estate Motor Vehicle Mother 1974 Pettibone Super 8 Carry Lift forklift  Value of Collateral: \$_7,000.00  Amount of arrearage and other charges at time case filed included in secured claim, if any: \$_16,549.17  6. Unsecured Nonpriority Claim \$_9,549.17  Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.  8. Credits: The amount of all payments on this claim has been making this proof of claim.  9. Supporting Documents: Attach copies of supporting documents, invoices, itemized statements of running accounts, contragreements, and evidence of perfection of lien. DO NOT S documents are not available, explain. If the documents are volum 10. Date-Stamped Copy: To receive an acknowledgments.	Amount entitled to priority \$\\$ Specify the priority of the claim:  \[ \begin{array}{cccccccccccccccccccccccccccccccccccc	Attach itemized statement of all  d priority claim  \$4,925),* earned within 90 days or cessation of the debtor's C. § 507(a)(3). lan - 11 U.S.C. §507(a)(4). hase, lease, or rental of property or old use - 11 U.S.C. § 507(a)(6). d to a spouse, former spouse, or al units - 11 U.S.C. § 507(a)(8). f 11 U.S.C. § 507(a)(). l/07 and every 3 years thereafter after the date of adjustment.  Send claims to: U.S. Bankruptcy Court 301 U.S. Courthouse 300 South Fourth Street							

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## UNITED STATES BANKRUPTCY COURT DISTRICT OF MINNESOTA

\_\_\_\_\_

In re: Robert A. Clarin and Donna J. Clarin,

Chapter 7 Bky. No. 04-40456

Debtor(s).

#### UNSWORN DECLARATION FOR PROOF OF SERVICE

\_\_\_\_\_

- I, Terri A. Georgen, declare that on the date indicated below, I served the following:
  - (1) Notice of Hearing and Motion Objecting to Claim of Creditor; (2) Unsworn Declaration for Proof of Service; and (3) Proposed Order

upon each of the entities named below, by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at St. Paul, Minnesota, addressed to each of them as follows:

UNITED STATES TRUSTEE 1015 U.S. COURTHOUSE 300 SOUTH FORTH STREET MINNEAPOLIS, MN 55415

BILLS EQUIPMENT C/O ROBERT KANUIT KANUIT & BRAY LTD 4815 W ARROWHEAD RD, STE 230 HERMANTOWN, MN 55811

ROBERT A. CLARIN DONNA J. CLARIN 31095 BAUGH ST. NW PRINCETON, MN 55371

ROBERT KALENDA, ESQ. 919 W. ST. GERMAIN, STE 2000 ST. CLOUD, MN 56301

And I declare under penalty of perjury that the foregoing is true and correct.

Date: September 29, 2004 \_\_e/Terri A. Georgen-Running\_\_\_\_

# UNITED STATES BANKRUPTCY COURT DISTRICT OF MINNESOTA

In re: Robert A. Clarin and Donna J. Clarin,	Chapter 7 Bky. No. 04-40456
Debtor	(s).
	ORDER
	ame before the Court on the Objection to Claim of
Creditor filed by the Trustee. Appea upon all the files, records and proceed	rances, if any, were as noted upon the record. Based dings herein,
IT IS HEREBY ORDERED:	
1. Claim No. 8 is disallo	wed.
	Judge Nancy C. Dreher UNITED STATES BANKRUPTCY JUDGE